



C.R.P. (MD) No. 1760 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 1760 of 2024

1.P.Kannan

2.A.Subburaman

... Petitioners/

Defendants 8 & 9

-VS-

1.Govindan

2.Chinnaraja

3.Muthu

4.Karuppaiah

5.A.Alagarsamy

6.A.Jeyaraman

7.A.Murugan

8.Ramuthai

9.Saroja

10.Poongodi

11.Tamilselvi

... Respondents 5 to 11/

Defendants 1 to 7

PRAYER: Civil Revision Petition filed under Article 225 of the Constitution of India, to call for the records and struck off the plaint in O.S.No.192 of 2024 pending on the file of the Additional Sub-Judge, Dindigul.

For Petitioners : Mr.K.Chengiz Khan



C.R.P. (MD) No. 1760 of 2024

ORDER

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The Civil Revision Petition is filed to strike off the plaint in O.S.No.192 of 2024.

2. The case of the plaintiffs is that they are the owners of the property by virtue of the patta issued in their name and they having inherited the property from one Alagarsamy. The defendant has taken sale-deed from the legal heirs of yet another Alagarsamy, who did not have any title whatsoever, as such, the suit is filed to for a declaration that the plaintiffs are the owners of the suit property and also for further reliefs to declare the power of attorney as well as the sale-deed as null and void and for other reliefs.

3. The learned Counsel appearing on behalf of the petitioners would submit that when it is the pleadings of the defendants that the defendants' vendor did not have the title, the title of the vendor relates back to the document of the year 1955. In view thereof, the suit will be hopelessly barred by limitation. The learned Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in *Ramisetty Venkatanna and another v. Nasyam Jamal Saheb and others* reported in 2023 (5) CTC 60.



C.R.P. (MD) No. 1760 of 2024

4. I have considered the said submission made by the learned Counsel for the petitioners and perused the material records of the case. It can be seen that in the judgment referred to by the petitioner, the plaintiffs case itself is based on the premise that the earlier partition deed was erroneous. The said fact is extracted in para 3.3 of the said judgment. However, in this case, it is the version of the defendant that the vendor has got such a title by virtue of an earlier deed of the year 1955. In that view of the matter, this is not a case, where at the outset this Court can interfere under Article 227 of the Constitution of India. Therefore, it is for the defendant to bring it to the notice of the Court appropriately either by filing an application under Order VII Rule 11 of CPC or by taking such plea in the written statement and the same shall be dealt with by the Trial Court in accordance with law. Therefore, leaving it open the said options, the Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

01.08.2024

Index : No
NCC : No
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C.R.P. (MD) No. 1760 of 2024

D.BHARATHA CHAKRAVARTHY, J.

PKN

To

1. The Additional Sub-Judge, Dindigul.

C.R.P. (MD) No. 1760 of 2024

01.08.2024